

HOUSE BILL REPORT

HB 1035

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to militia records, property, command, and administration.

Brief Description: Concerning militia records, property, command, and administration.

Sponsors: Representatives Hurst, Morrell, Moeller, Kelley, Miloscia, Hunt, Appleton, Chase and Campbell; by request of Washington Military Department.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 1/13/09, 1/29/09 [DP].

Brief Summary of Bill

- Makes the Adjutant General, subject to the orders of the Governor, the Commander of the Washington National Guard.
- Eliminates the requirement that the Adjutant General create a separate Bureau of Records.
- Updates and streamlines the powers and duties of the Adjutant General.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 8 members: Representatives Hunt, Chair; Appleton, Vice Chair; Armstrong, Ranking Minority Member; Alexander, Flannigan, Hurst, Miloscia and Newhouse.

Staff: Tracey O'Brien (786-7196)

Background:

The Governor, with the advice and consent of the Senate, appoints the Adjutant General of the State of Washington. As the head of the Washington Military Department (Department), the Adjutant General oversees the Department's four major operational divisions: the Army National Guard, the Air National Guard, Emergency Management and State Services.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill:

The powers and duties of the Adjutant General are updated and streamlined. The Adjutant General, subject to the orders of the Commander-in-Chief, commands the Washington National Guard and must recruit, train, maintain, and administer Washington's organized militia.

The Adjutant General is not required to create a Bureau of Records to house records that already go to the Department of Defense or State Archives for maintenance and preservation.

Language regarding the accounting of funds, safeguarding property, maintaining the seal, publishing orders, maintaining histories and militia records, and publishing of certain documents and publications, including the Washington Code of Military Justice, are updated and consolidated.

Appropriation: None.**Fiscal Note:** Not requested.**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.**Staff Summary of Public Testimony:**

(In support) This bill streamlines, updates, consolidates, and clarifies language pertaining to the power and duties of the Adjutant General of Washington. These statutory amendments would eliminate needless state expense and bureaucracy. First, it explicitly states that the Adjutant General, subject to the Governor's orders, is the commander of the Washington National Guard with the responsibility for the recruiting, training, and administering the organized militia of Washington. Currently, the law is ambiguous regarding the Adjutant General's command authority. Such command authority is critical to the good order and discipline of the Washington Military Department and is essential to the Adjutant General's role in administering the Washington Code of Military Justice.

Second, the bill eliminates the requirement that the Adjutant General create a separate Bureau of Records to house copies of records already being maintained by the Department of Defense or by the Washington State Archives. This bill does **not** change the status of records for public access. Federal documents will still be subject to the Freedom of Information Act and state records will be available under the Public Records Act.

(Opposed) This bill would allow the Adjutant General to determine which records are federal and subject to the Freedom of Information Act instead of being state records under the Public Records Act. This would prevent the public disclosure of documents that should be available

to the public. This happens when the National Guard is involved in a police action such as a drug interdiction task force. The Washington State Patrol should maintain and house those National Guard records instead of hiding them with the Department of Defense. A state agency, such as the Washington Military Department, must be accountable.

Persons Testifying: (In support) Representative Hurst, prime sponsor; Oscar Hilman; Major General Timothy Lowenberg, Washington Military Department; and Ted Wicorek, Veterans Legislative Coalition.

(Opposed) Steve Sarich, Cannacare; and John Worthington.

Persons Signed In To Testify But Not Testifying: None.